

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Jorge HERNANDEZ-Garcia,

Defendant

Magistrate Docket No. **08 MJ 1438**

**COMPLAINT FOR VIOLATION OF:**

Title 8, U.S.C., Section 1326  
Deported Alien Found in the  
United States

The undersigned complainant, being duly sworn, states:

On or about **May 6, 2008** within the Southern District of California, defendant, **Jorge HERNANDEZ-Garcia**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

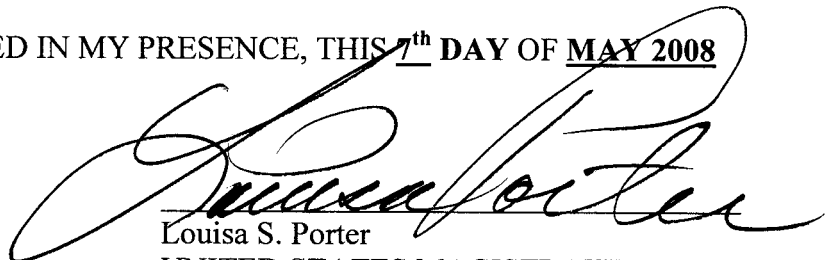
And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT

James E. Bailey  
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 7<sup>th</sup> DAY OF MAY 2008



Louisa S. Porter  
UNITED STATES MAGISTRATE JUDGE

**CONTINUATION OF COMPLAINT:**  
**Jorge HERNANDEZ-Garcia**

**PROBABLE CAUSE STATEMENT**

On May 6, 2008, at approximately 12:45 a.m., Senior Patrol Agent J. Moriarty was in the area of Clearwater Way in San Diego, California. Clearwater Way is approximately two miles west of the San Ysidro, California Port of Entry and approximately 250 yards north of the United States/Mexico International Boundary. Agent Moriarty observed one individual with dirty pants and grass in his hair, standing in this area. This area is notoriously used by illegal aliens to further their illegal entry into the United States. Agent Moriarty approached the individual, identified himself as Border Patrol Agent, and conducted an immigration inspection. The individual admitted to being a citizen and national of Mexico illegally in the United States. This individual stated that there were two other individuals hiding south of their location. Agent Moriarty walked southbound, and observed two individuals, one later identified as the defendant Jorge HERNANDEZ-Garcia, attempting to conceal themselves in a small bush in a concrete drain. Agent Moriarty identified himself as a Border Patrol Agent and conducted an immigration inspection. The defendant and the other individual stated that they did not have the proper documentation to be or remain in the United States legally. The defendant and the other individual admitted to being citizens and nationals of Mexico. At approximately 12:50 a.m., the defendant and the other individuals were arrested and transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on November 29, 2006 through San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda Rights, which he stated he understood and was willing to answer questions without having a lawyer present. The defendant admitted to being a citizen and national of Mexico without having the proper immigration documents allowing him to be or remain in the United States legally.